IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5841 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GSRTC

Versus

MAVJIBHAI T GOHEL THROUGH UNION OF ST EMPLOYEES

Appearance:

1. Special Civil Application No. 5841 of 2000

MR ASHISH M DAGLI for Petitioner No. 1

MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 20/06/2002

ORAL JUDGEMENT

#. The petitioner Corporation has challenged the order passed by the Industrial Tribunal, Bhavnagar in Reference (IT) No.270/91. By the impugned award, the Tribunal has partly allowed the reference of the respondent workman.

The Industrial Tribunal modified the order of the disciplinary authority by substituting the penalty of withholding of seven increments with future effect to seven increments without future effect. The said order is challenged at the instance of the Corporation by way of this petition.

#. The respondent workman was serving as a Conductor and he was subjected to the disciplinary proceedings on the ground that, while he was on duty, he has not issued tickets to certain passengers. Ultimately, the disciplinary authority inflicted the penalty of withholding of seven increments with permanent effect. The disciplinary authority passed the aforesaid order on 12.6.1980. Ultimately, the concerned workman raised the aforesaid industrial dispute and the Industrial Tribunal substituted the penalty as indicated above.

#. It was argued on behalf of the petitioner that, when the misconduct is proved, the Industrial Tribunal has taken very liberal view of the matter. In his submission, withholding of seven increments without future effect is on very lower side and that unless the increments are withheld with future effect, there cannot be any deterrent effect on the concerned workman.

#. I have gone through the award of the Tribunal and I have also considered the arguments of both the learned advocates. The Tribunal has found at page 13 that the concerned workman has not issued the tickets to two passengers amounting to Rs.2.30 ps. He has also not given the tickets to certain other passengers. Nothing is pointed out about the past conduct of the respondent workman. However, considering the nature of misconduct and considering the fact that the Corporation itself has not dismissed the said employee from service and considering the totality of the facts and circumstances of the case, in my view, at least, some increments are required to be withheld with future effect instead of withholding increments without future effect as awarded by the Industrial Tribunal.

#. Considering the facts and circumstances of the case as well as considering the fact that the defence of the respondent workman was found plausible by the Industrial Tribunal that because of heavy rush in the bus, he could not issue the tickets as well as considering the fact that the disciplinary authority has not passed the order of removal or dismissal, in my view, withholding of three increments with future effect is just and proper. The Industrial Tribunal has taken very liberal view of the

matter in imposing the penalty of withholding of seven increments without future effect. Considering the misconduct, at least, increments are required to be withheld with future effect instead of withholding seven increments without future effect. The concerned workman now will be subjected to the penalty of withholding of three increments with future effect. The order of the Industrial Tribunal is modified accordingly. The Corporation is directed to comply with this order within a period of three months from today. Whatever benefits which are required to be given in view of this modified order, may be given to the concerned workman within the aforesaid period. The petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)

(pathan)